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Via ECF

Hon. Sidney H. Stein
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10277

MEMO ENDORSED

Re: *United States v. Shuai Sun*
Docket No. 18-Cr-905

Your Honor,

I am writing to you today to express my concerns about going forward with Mr. Sun's trial as scheduled later this month. I do understand that our trial is important for both Mr. Sun and the Government. More importantly, I understand and deeply respect the gymnastics that the judges of the Southern District have had to engage in in order to keep the accused's Constitutional Rights paramount in these strange times. But, after much thought, research and discussion, I find that I must respectfully ask the Court, over the Government's objection, to delay Mr. Sun's trial for 60 days for the reasons that follow.

With the onset of the Omicron variant, court protocols which were updated just last month are out of date. New York is setting records for positive covid tests at unprecedented rates. According to the Institute for Health Metrics and Evaluation at the University of Washington School of Medicine, it is estimated that 60% of the population will contract covid during the next two months. NBC news reported today that New York State hospitalizations have surpassed 10,000. This variant is highly contagious, and Dr. Craig Spencer an Emergency room doctor affiliated with Columbia Presbyterian Hospital system, says that while people who

1/5/2022
Request for adjournment denied
SDNY has been very successful in
conducting constitutionally appropriate
trials at this time. So ordered.
Side USDC
VS.S.

have received a booster shot will likely only have a sore throat, the symptoms for those merely vaccinated can be serious with the worst outcomes for the unvaccinated. A person is most contagious 2 days prior to showing any symptoms—perhaps why this is spreading so quickly. One may not even know they are sick while they are infecting others.

Yesterday morning I received an email from the District of Connecticut. They are joining the District of New Jersey in continuing all trials until at least February. Their reasoning concerns jurors. And their reasoning mirrors my own thoughts.

I have read the Trial protocol and the updates. The issue which concerns me most, is, of course, whether Mr. Sun can receive a fair trial. Will jurors truly be able to set aside their concerns and fears about contracting Covid-19 and give the facts of the case their undivided attention? Will they be able to be fair, impartial, and attentive? Will Mr. Sun be able to get a fair cross-section of the community? Will older jurors be afraid to sit? Will people with school age children be shunned by other jurors? Will parents even want to be on a panel for fear of taking Covid back to their under 5 year olds? The questions are endless. And each question comes back to what the District of Connecticut calls an “adequate spectrum” of jurors. What it comes down to as Mr. Sun’s attorney, is if there is any reasonable chance that he will not be able to get a Constitutionally proper venire, at this particular point in time, wouldn’t it be best to request to continue the trial for two months when the scientists say things will be better?

I am ready and prepared to go forward with this trial, and will abide by the wisdom of this Court. I thank you for your consideration.

Respectfully submitted,

S/

Stacey Van Malden, Esq.

SVM/aw